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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/771,571   | 02/04/2004  | Harold E. Phelps     | PHE-10702/02        | 3721             |
| 25006  | 7590        | 12/28/2004           | EXAMINER            |                  |
| GIFFORD, KRASS, GROH, SPRINKLE<br>ANDERSON & CITKOWSKI, PC<br>280 N OLD WOODARD AVE<br>SUITE 400<br>BIRMINGHAM, MI 48009 |             |                      | GIMIE, MAHMOUD      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3747                |                  |
| DATE MAILED: 12/28/2004  |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/771,571

Applicant(s)

PHELPS, HAROLD E.

Examiner

Mahmoud Gimie

Art Unit

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because reference 12 in figure 1 is pointing to the crankcase instead of pointing to the combustion chamber between the top of the piston and the bottom of the cylinder head. Further, reference 22 pointing to figure 2 should be shown for clarity.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Pischinger (3,990,413).

Pischinger discloses a fuel supply system for a reciprocating engine, the combination comprising: a fuel injector (8) for receiving fuel from a source of fuel and delivering fuel to an engine cylinder; a variable volume, positive displacement fuel pump having an inlet for receiving fuel from said source of fuel and an outlet for delivering fuel to said injector (8), said pump being driven in timed relation to the reciprocation of said engine; a throttle valve (33) rotatable to control the volume of air to cylinder and having positions proportional to speed and load on said engine; and control means (22) responsive to the position of said throttle valve (33) to control the displacement of said pump to said fuel injector (8) for each intake stroke of said engine in said engine proportion to speed and load on said engine, see figures 1-2.

With regard to claim 2, said pump includes a reciprocating piston means (1) and a pivoting cam (18) to engage said piston means (1) to regulate the length of stroke of said piston means.

Art Unit: 3747

With regard to claim 3, the stroke of said piston means (1) of said pump is at a maximum stroke when said engine is operating at maximum speed and at a minimum stroke when said engine is operating at minimum speed.

With regard to claim 4, the fuel supply systems further comprising a nozzle receiving fuel from said pump and having an outlet passage delivering a pre-determined quantity of fuel delivered at a positive pressure for each delivery stroke of said pump.

***Allowable Subject Matter***

4. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 8-15 are allowed over prior art of record.

6. The primary reason for allowance of claims 5-15 is the inclusion of the limitations of "linkage means connected to the throttle valve and the cam for moving the cam in response to movement of the throttle to vary the stroke of the piston and displacement of the pump in proportion to engine speed and load" (paraphrased for clarification) that the prior art of record neither taught nor suggested.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show mechanical control systems of a fuel injection system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahmoud Gimie whose telephone number is 571-272-

Art Unit: 3747

4841. The examiner can normally be reached on Tuesday-Friday between 7 a.m. -3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on 571-272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MG

 12/22/09  
MAHMOUD GIMIE  
PRIMARY EXAMINER